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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 United States of America,
10
11 Plaintiff,
12 v.
13 Jose Alberto Samayoa-Alvarez,
14 Defendant.

No. CR-21-03223-001-TUC-RM (JR)
**MAGISTRATE JUDGE'S FINDINGS
AND RECOMMENDATION UPON A
PLEA OF GUILTY**

15 Upon Defendant's request to enter a plea of guilty pursuant to Rule 11 of the
16 Federal Rules of Criminal Procedure, this matter was referred to the Magistrate Judge by
17 the District Court, with the consents of the Defendant, counsel for the Defendant, and
18 counsel for the United States. After consultation with counsel, Defendant has orally
19 consented on the record to proceed via video conference and Defendant indicated defense
20 counsel is authorized to sign the plea agreement on their behalf after reviewing it in its
21 entirety with counsel.

22 Thereafter, the matter came on for a hearing on Defendant's plea of guilty to One
23 Count Indictment which charges Title 8, U.S.C. §1326(a) enhanced by 8:1326(b)(1) Re-
24 Entry of Removed Alien in full compliance with Rule 11, Federal Rules of Criminal
25 Procedure, before the Magistrate Judge, in open court and on the record.

26 In consideration of that hearing and the allocution made by the Defendant under
27 oath on the record and in the presence of counsel, and the remarks of the Assistant United
28 States Attorney,

1 (A) I FIND as follows:

- 2 (1) that Defendant is competent to plead;
- 3 (2) that Defendant understands his/her right to trial;
- 4 (3) that Defendant understands what the minimum mandatory and maximum
- 5 possible sentence is, including the effect of the supervised release term, and
- 6 defendant understands that the sentencing guidelines apply and that the
- 7 court may depart from those guidelines under some circumstances;
- 8 (4) that the plea of guilty by the Defendant has been knowingly and voluntarily
- 9 made and is not the result of force or threats or of promises apart from the
- 10 agreement between the parties;
- 11 (5) that Defendant understands the nature of the charge against him/her;
- 12 (6) that Defendant understands that his/her answers may later be used against
- 13 him/her in a prosecution for perjury or false statement; and
- 14 (7) that there is a factual basis for the Defendant's plea;
- 15 (8) that the defendant knowingly, intelligently and voluntarily waived his/her
- 16 right to appeal or collaterally attack his/her conviction and any sentence
- 17 imposed if it is within the range permitted by the plea agreement;

18 and further,

19 (B) I RECOMMEND that the District Court accept the Defendant's plea of guilty to

20 One Count Indictment which charges Title 8, U.S.C. §1326(a) enhanced by 8:1326(b)(1)

21 Re-Entry of Removed Alien.

22 (C) The parties have fourteen (14) days from the date of service of this Report and

23 Recommendation to file written objections with the District Court.


24 IT IS FURTHER ORDERED:

25 (D) Presentence Report to be prepared.

- 26 (1) Any objection(s) to the presentence report shall be filed no later than 14
- 27 days after receiving the presentence report pursuant to Fed.R. Crim.P. 32
- 28 (f) (1);

- (2) any response to the objection(s) to the presentence report shall be filed no later than 11 days after receiving the objection(s);
- (3) any sentencing memorandum shall be filed no later than 5 business days prior to sentencing;
- (4) Any party seeking to continue a sentencing date shall file a Motion to Continue no later than two (2) business days prior to the date of the hearing. Additionally, counsel shall telephonically notify chambers when sentencing is within two (2) business days;
- (5) failure to comply with this Order may result in the imposition of sanctions.

Dated this 31st day of January, 2022.



Honorable D. Thomas Ferraro
United States Magistrate Judge